

HEADQUARTERS:

**50 E. Washington St, Suite 500
Chicago, Illinois 60602**

P: 312.263.3830
F: 312.263.3846

BOSTON OFFICE:

**89 South St, Suite 407
Boston, Massachusetts 02111**

P: 617.946.4672
F: 617.275.8991

www.povertylaw.org

July 27, 2012

Governor's Health Care Reform Implementation Council
Office of the Governor
207 State House
Springfield, IL 62706

Submitted via internet to <http://www2.illinois.gov/gov/healthcarereform/Pages/NavigatorProgram.aspx>

Re. Illinois Navigator Program Design Final Report

Dear Council Members:

The Sargent Shriver National Center on Poverty Law is a law and public policy organization whose mission is increasing justice and opportunity for America's low-income individuals, families, and communities. We advocate for improvements and expansions in public health programs, such as Medicare, Medicaid, EPSDT, and CHIP, and for expansion of access to affordable, comprehensive, quality health care for all Americans. We are firm supporters of the Affordable Care Act and are working in Illinois—our home state—and nationally for its successful implementation.

It is estimated that over 1.6 million Illinois residents will benefit from full implementation of the ACA in 2014, through the establishment of an Affordable Insurance Exchange and providing Medicaid coverage to the newly eligible population. While the Exchange is expected to streamline the application process for Medicaid and qualified health plans and insurance affordability programs, it is anticipated that many people will still require personalized assistance to understand their options for coverage and submit their applications. Overall, the Shriver Center agrees with the majority of the proposed recommendations and stakeholder findings in the Navigator Final Report. The Navigator program is a vital piece of Illinois' implementation of the Affordable Care Act and we appreciate the opportunity to submit the comments below on the Illinois Navigator Program Design Final Report.

But first, a caveat about our comments. Illinois' recently-announced decision to have a federal-state partnership Exchange for 2014 and then move forward with a state-based Exchange for 2015 makes the logistics of how the Navigator program will be administered not entirely clear to us. Therefore, some of our comments may not correctly reflect the current situation and the evolving decision-making. We appreciate your patience if that is the case. To the extent that other state agencies or the federal government will be making decisions or taking action, please share our comments with the appropriate agencies.





HEADQUARTERS:

50 E. Washington St, Suite 500
Chicago, Illinois 60602

P: 312.263.3830

F: 312.263.3846

BOSTON OFFICE:

89 South St, Suite 407
Boston, Massachusetts 02111

P: 617.946.4672

F: 617.275.8991

www.povertylaw.org

Program Administration

- The Shriver Center recommends that Illinois conduct a “needs assessment” in order to better understand where persons who will benefit from Navigator services reside. This needs assessment will help target limited resources and help the state or federal government better craft an RFP that best addresses outreach and enrollment needs.
- The Shriver Center recommends that Navigator grants be awarded through a competitive RFP process that allows for organizations throughout Illinois to apply and offer their unique approaches to outreach and enrollment.
- The Shriver Center recommends that conflict of interest provisions be developed in a manner that ensures the utmost program integrity and assures that navigators are working in the best interest of consumers. For example, we think that fee-sharing arrangements between brokers and navigators and the offering by brokers to navigators of any incentives to refer people seeking coverage be prohibited. Strong oversight and quality measures must also be developed. Feedback from individuals who utilize Navigator services should be incorporated into this process and consumers should be informed of the formal grievance/complaints process.
- Ongoing input from stakeholders is critical to the development and implementation of a Navigator program. The Shriver Center recommends that the Navigator program administration include regular meetings with stakeholders, at least every other month; these meetings should begin prior to the launch of the program..
- Navigators should be viewed as a “feedback mechanism” for the state, in order to help monitor the efficacy of the Exchange. To this end, the Shriver Center recommends that navigators be required to meet on a regular basis with state officials to share this feedback. These meetings should occur on a frequent basis when the grants are first issued in 2013 and afterwards should occur at least on an annual basis.
- The Shriver Center recommends that performance data be provided to Navigator grantees on a monthly basis and supports the development of an online portal where Navigator grantees can submit reports and data that they must provide as part of their grant agreement. The Shriver Center also recommends that information about the Navigator program, including progress towards the overall program goals, be reported to the Exchange on a regular basis, as well as included in any reports that the Exchange provides to the public.

Licensure and Certification

- The Shriver Center has concerns about the requirement of background checks for navigators. We fear that requiring background checks will discourage individuals with criminal records from applying to be navigators and, if conducted illegally, exclude many qualified applicants from employment. If criminal background checks are required, they must be conducted by government agencies, such as the Illinois State Police and not by commercial data brokers. Fair Credit Reporting Act requirements must be met. Exclusions should be narrowly tailored to specially exclude only individuals with convictions for relevant crimes, such as identity theft. Finally, the entities hiring the navigators should consult the US Equal Employment Opportunity Commission’s 2012 guidance on the use of arrest and conviction records in employment decisions for proper standards and procedures.





HEADQUARTERS:

50 E. Washington St, Suite 500
Chicago, Illinois 60602

P: 312.263.3830

F: 312.263.3846

BOSTON OFFICE:

89 South St, Suite 407
Boston, Massachusetts 02111

P: 617.946.4672

F: 617.275.8991

www.povertylaw.org

Training

- The Shriver Center appreciates and agrees with the recommendation that the initial navigator training program cover both the Exchange and Medicaid programs. We believe this will be of great importance to those individuals with incomes hovering close to the 133% FPL Medicaid level. These individuals will be cycling between Medicaid and the Exchange with subsidies if they have even minimal changes in income or with changes in family composition. It is vital that navigators have the ability to counsel clients as they move between the Exchange insurance programs and the public insurance programs. Navigators should be prepared to help these individuals smoothly navigate the transitions to keep the individuals covered continuously. Because such likely transitions will be on the minds of clients, navigators should be prepared to not only help people get the right coverage but explain to them how such transitions may occur in the future. We also approve of a continuing education component to the program to ensure that navigators have the most up to date and useful knowledge about insurance and Medicaid changes.
- While not directly on point to navigator training, we suggest that brokers, medical providers, legal services programs and other interested groups be allowed to audit navigator training if they wish to do so. The more people who know how the different parts of enrollment are working, the better.
- There must be a balance struck between the complexity of the Navigator program and ease of administration and utilization. To this end, the Shriver Center agrees that the training for navigators be fairly rigorous to reflect the complexity of the programs, but recommends that the training itself be somewhat flexible to adapt to different navigator entities structure and location and to maintain a low budget.
- The Shriver Center recommends that Illinois' Navigator program includes additional training for navigators to screen and refer for other public benefit programs. Given the Integrated Eligibility System that the Illinois Department of Healthcare and Family Services (HFS), Illinois Department of Human Services (IDHS), Illinois Department of Insurance (DOI) and other agencies are in the process of building, navigators will be able to utilize the resources and basic information about these programs in order to help connect more eligible individuals to these programs.
- As for the format of the training, the Shriver Center prefers that the initial navigator training should be mandatory to attend in person to ensure the maximum level of participation and engagement by the individual who will be providing the enrollment and outreach.
- The Shriver Center agrees that navigators should be re-certified after completing their continuing education programs in order to maintain consistently updated knowledge. Given the new public and private enrollment opportunities and the fact that the Navigator program will be new to Illinois, recertification should take place more frequently in the first two years of operation of the Navigator program. The Shriver Center recommends that recertification be web-based, as a more cost-effective form of disseminating information out to widely dispersed entities. This will likely be much less expensive than requiring all navigators to travel to a few sites for in-person training. To alleviate HMA's concern that attendees might pay less attention during web-based training webinars, modules could be developed that included interactive components, like questions and polls, which attendees would have to be paying attention to in order to answer correctly. The training system could also track which attendees are answering, so that the trainers might specifically follow-up via call with those individuals. There should also be either a telephonic or web-based live help portion, where navigators have an opportunity to talk through questions with trainers.

Role of Producers

- Producers should primarily assist in the SHOP Exchange, and not with the individual Exchange or Medicaid. But because we recognize that producers will continue to assist people with individual and





HEADQUARTERS:

50 E. Washington St, Suite 500
Chicago, Illinois 60602

P: 312.263.3830

F: 312.263.3846

BOSTON OFFICE:

89 South St, Suite 407
Boston, Massachusetts 02111

P: 617.946.4672

F: 617.275.8991

www.povertylaw.org

family policies, we suggest regulations requiring producers to screen all clients for eligibility for subsidies or Medicaid in order to advise eligible clients about those programs.

Navigator Program Financing and Sustainability

- The Shriver Center agrees that Illinois must have the ability to leverage federal Medicaid dollars to the greatest extent possible to receive the 50% administrative match. To this end, the state may need to outlay some money in order to create a system to identify Medicaid-related costs or expenditures, but it should be worth the investment.
- To finance the other half of the program costs, the Shriver Center recommends that, if an assessment on providers is used, the assessment be as broadly based as possible and include those providers both inside and outside the Exchange. This will provide the most stable revenue source, since it is independent of Exchange volume. It will also be a lower assessment per provider, since it is spread over a wider base. This broad-based assessment will also remove any incentive for insurers not to offer insurance inside the Exchange, since they will be subject to a small assessment whether they are inside or outside the Exchange.
- Block grant funding with a pay-for-performance bonus may be an appropriate approach to funding Navigator grantees. However, The Shriver Center recommends that this model of funding should be reviewed 18-24 months after the awarding of the first grant to determine whether or not this payment mechanism should be revised.

Recommended Navigator Model

Navigators, the individual market and the SHOP market:

- While the Shriver Center agrees that the efforts of navigators should be focused on outreach and enrollment for the individual market, especially in the first few months of operation, we think that the door for navigators to assist with enrollment into SHOP should be kept as an available option, as navigators may be useful towards these efforts in the future.

Relationship between the Navigators and the ACAA Program:

- The All Kids Application Agent (ACAA) program has proven itself to be extremely effective in outreach and enrollment efforts. The Shriver Center is pleased to see ACAAs included in the final report as a model program upon which an Illinois Navigator program should be built. The Shriver Center was disappointed by the decision to eliminate funding of the Technical Assistance Payments (TAP) to ACAAs, effective July 1, 2012, as a result of Medicaid cost-reductions. Illinois has benefited greatly from the ACAAs enrollment and outreach, most recently illustrated through three consecutive years of “bonus payments” amounting to close to \$40 million. Illinois received these payments for meeting enrollment goals set forth by the federal Children’s Health Insurance Program Reauthorization Act. A single year of these bonuses could easily fund numerous Navigator grants. The Shriver Center urges the reinstatement of ACAA funding and the use of these bonuses to help support a robust Navigator program. While we agree that ACAAs should be encouraged to apply to serve as Navigators, it is unclear at this point whether full integration of the ACAAs (to the point where there would no longer be agencies that only assisted with All Kids applications) is necessary or helpful to outreach efforts.





**SHRIVER
CENTER**

Sargent Shriver National Center on Poverty Law

HEADQUARTERS:

**50 E. Washington St, Suite 500
Chicago, Illinois 60602**

P: 312.263.3830

F: 312.263.3846

BOSTON OFFICE:

**89 South St, Suite 407
Boston, Massachusetts 02111**

P: 617.946.4672

F: 617.275.8991

www.povertylaw.org

Thank you again for the opportunity to comment on the Illinois Navigator Program Design Final Report. If you have additional questions, please contact Caitlin Padula at caitlinpadula@povertylaw.org or 312-369-1096 (Contact valid through August 31, 2012) or Andrea Kovach at andreakovach@povertylaw.org or 312-368-1089.

Sincerely,

Caitlin Padula

Caitlin Padula

Staff Attorney / University of Chicago Public Interest Fellow



Advancing justice and opportunity

THE SHRIVER CENTER IS A RECIPIENT OF THE MACARTHUR AWARD FOR CREATIVE AND EFFECTIVE INSTITUTIONS